

PURCHASE AGREEMENT

This Purchase Agreement ("Agreement") is made on the _____ day of _____, 20____, between [SELLER NAME], an individual/married couple/entity type of [SELLER ADDRESS] ("Seller"), and [BUYER NAME], a Michigan limited liability company/corporation/nonprofit corporation of [BUYER ADDRESS] (the "Buyer"/"Conservancy"), in consideration of an earnest money deposit of _____ dollars (\$ _____), the receipt and adequacy of which is hereby acknowledged, agrees to sell to the Buyer a conservation easement/restrictive covenant over Property located in City/Township Name, _____ County, Michigan described in Exhibit A attached hereto (the "Property").

TERMS AND CONDITIONS:

- 1. PRICE AND TERMS.** The Buyer agrees to purchase from Seller a Conservation Easement/restrictive covenant, to be executed in substantially the same form as attached hereto as Exhibit B, and to pay a purchase price of _____ dollars (\$ _____). Buyer agrees to pay to Seller the balance of \$ _____ in ## (#) equal installments of \$ _____ due on [fill in dates of any subsequent installment payments], respectively.

Any payment of principal and interest not paid when due shall bear interest at the rate of six percent (6%) per annum until paid. The late interest shall be a separate amount owed under this Purchase Agreement and shall be due and payable immediately upon the occurrence of the default. All payments shall be made at Seller's address, or wherever otherwise directed by Seller.

- 2. EVIDENCE OF TITLE.** A standard ALTA owner's title insurance commitment in the amount of the Purchase Price shall be provided to Buyer by the Seller. Seller shall have sole discretion to select the title company.
- 3. CLOSING DATE.** Closing shall be on or before DATE. Closing shall be held at a mutually acceptable title company.
- 4. DOCUMENTS FOR CLOSING.** At closing, the Seller shall deliver an executed Conservation Easement/restrictive covenant, executed Baseline Documentation Report, title insurance, and any affidavits or documents required by the title insurance company.
- 5. CLOSING EXPENSES.** Seller shall pay the cost of any documentary revenue stamps, title insurance, and Seller's own attorney's fees. The Buyer will pay any customary recording fees and Buyer's own attorney's fees. Seller and the Buyer shall each pay one-half of the cost of preparation of closing documents and any escrow or closing fees.
- 6. TITLE DEFECTS.** The Buyer shall have the right to examine the title insurance commitment and make any objections to title. The Buyer shall notify the Seller of any objections in writing or the objections will be deemed to be waived. If any objections are made, the Seller shall have fifteen (15) days from receipt of the notice to correct the title. During this time, the Seller will use due diligence in pursuing all reasonable efforts to

correct the title problems, including bringing all necessary quiet title actions or other lawsuits.

Closing may be postponed pending correction of title but will take place within fifteen (15) days after the Buyer receives written notice of the correction of title, or such other date as may be mutually agreeable to Seller and the Buyer. If title is not corrected within fifteen (15) days as provided for in this Option, the Buyer may elect to: (1) accept title as it then is and close the **conservation easement/restrictive covenant transaction**; (2) declare this Agreement null and void and obtain a refund of the earnest money deposit **and any installment payments made**; or (3) allow the Seller additional time to correct the title defect.

7. **ENVIRONMENTAL LIABILITY.** Seller warrants that they have not caused any release of hazardous or toxic substances during their ownership and use of the Property. The Seller warrants that they know of no condition, release, storage, use or disposal of hazardous or toxic substances on the property.

Upon execution of this Agreement, the Buyer or its employees, agents, or contractors have the right to enter and inspect the Property and perform a Phase I environmental evaluation, at the Buyer's expense, to be completed prior to closing. If the Phase I evaluation reveals that a Phase II environmental evaluation is warranted, then the Buyer shall notify the Seller in writing at least thirty (30) days before closing. Closing may at the Buyer's election be postponed until the Buyer can complete such Phase II study.

If it is determined that the Property contains any "release" or is a "facility" as defined by NREPA Part 201, MCL 324.20101 et seq., then the Buyer may: (1) declare this Agreement, and all obligations and commitments herein, null and void **and obtain a refund of the earnest money deposit and any installment payments made**; or (2) at its expense, cause a Baseline Environmental Assessment to be conducted and filed with the Michigan Department of Environment, Great Lakes and Energy ("EGLE") as provided by Part 201, and proceed with the purchase of the Property.

The Buyer does not accept or assume any condition or liability for any such release or facility, hazardous substances, or any other contamination on the Property that existed before the date of closing, and does not assume any obligation or liability for such condition that has been caused or exacerbated by the Seller or other person or entity. Further, the Buyer does not release any claim it may have against the Seller for any such condition or release, hazardous substances, or contamination. The Seller shall defend, hold harmless, and indemnify the Buyer from any claim, demand, suit, order, judgment, or other obligation or liability associated with environmental conditions, releases of hazardous substances or contamination existing on the Property that existed before the date of closing, including any loss, damage, cost, expense, and reasonable attorney fees.

OR

Seller warrants that they have not caused any release of hazardous or toxic substances during their ownership and use of the Property, except as Seller discloses to the Buyer

within thirty (30) days of the date of this Agreement. Seller warrants that it knows of no condition, release, storage, use or disposal of hazardous or toxic substances on the property, except as Seller discloses to the Buyer within thirty (30) days of the date of this Agreement/other than **LIST**/those disclosed in the Phase I environmental assessment prepared by NAME and dated DATE, previously disclosed to Buyer. Seller shall inform Buyer of any change in environmental condition or release within (30) days of the change during the term of this Agreement. If conditions change or there is a release during the term of this Agreement, the Buyer has the right to require remediation to its satisfaction, or terminate the agreement and receive refund of **the earnest money deposit and any installment payments made**.

8. **DEFAULT.** If the Buyer fails to perform any of the covenants in this Purchase Agreement on or before the date on which the performance is required, Seller may serve on Buyer a written notice to cure. If Buyer fails to cure the default within 28 days of the date of such notice, the Buyer and Seller agree to the conveyance of a **conservation easement/restrictive covenant** encumbering a portion of the Property proportional to the number of installment payments paid to the Seller.

If Seller fails to perform any of the covenants in this Purchase Agreement, then Buyer may, at its sole discretion, chose to enforce this Purchase Agreement by action for specific performance, or chose any other remedy at law or in equity, or require refund of **the earnest money deposit and any installment payments made**.

If Buyer has to file any action to enforce this Purchase Agreement, Seller shall pay all of Buyer's costs and actual attorney fees.

9. **ASSESSMENTS AND ENCUMBRANCES.** All assessments and encumbrances which are a lien against the land at the time of conveyance to the Buyer will be satisfied of record by the Seller at or before the transfer of title. The Seller certifies that there are no lawsuits pending against this property, nor health department or zoning violations, nor condemnation proceedings now in effect against the property.
10. **MORTGAGE.** Seller shall not place a mortgage or any other such encumbrance on the Property during the term of this Purchase Agreement.
11. **PRESERVATION OF PROPERTY.** The purpose of the purchase of a **conservation easement/restrictive covenant** by the Buyer is to preserve the Property in its natural state. The Seller agrees that the Property herein described shall remain as it now is until closing, and that the Seller will prevent and refrain from any use of the Property for any purpose or in any manner which would adversely affect the Buyer's interest in the Property or impair its conservation values in any way. In the event of such actions, the Buyer may, without liability, refuse to accept the conveyance of **Conservation Easement/restrictive covenant**, in which event any payments shall be refunded, without penalty.
12. **BARGAIN SALE.** It may be the Seller's intent to sell the Conservation Easement under a bargain sale arrangement and make a charitable contribution equivalent to the difference

between the true fair market value of the Conservation Easement at the time of the closing, as determined by a qualified appraiser, and the agreed upon purchase price stated in this Agreement. The Buyer makes no representation or warranty that this transaction will qualify as a “bargain sale” under state or federal law. Seller agrees that the cost of any appraisal update is their responsibility and that Seller shall not be entitled to any future adjustments to the purchase price on the basis of any appraisal update.

13. **ASSIGNMENT.** The Buyer reserves the right to assign this Purchase Agreement to a third party provided: (1) the assignee is either another charitable organization or a governmental entity; (2) Seller is notified in writing before such assignment occurs; (3) the assignee’s intent is to acquire the land for conservation purposes; (4) assignment will result in no delay in the closing deadline; and (5) all terms and requirements of this Purchase Agreement are binding and remain applicable.
14. **CONTINGENCY.** The purchase of the Conservation Easement/restrictive covenant contemplated by this Agreement is contingent on upon approval by the Buyer’s Board of Directors at their next regularly scheduled meeting following execution of this Agreement. In the event that the Board of Directors denies approval, this Agreement shall be null and void and the Seller shall return the earnest money deposit.
15. **BINDING EFFECT.** The terms and conditions of this Purchase Agreement shall apply to and bind the heirs, executors, administrators, successors, and assigns of the Seller and the Buyer.
16. **AMENDMENT.** This Agreement may not be amended, altered, or modified unless done so in writing by the person against whom enforcement of any waiver, change, modification, or discharge is sought.
17. **ENTIRE AGREEMENT.** This Agreement sets forth the entire Agreement of the parties. It is intended to supersede all prior discussions or understandings.

[This portion of the page is intentionally left blank; signatures follow on the next page.]

SELLER:

NAME

STATE OF MICHIGAN)
) ss
COUNTY OF _____)

Acknowledged before me on this ____ day of _____, 20____, by **NAME**.

Notary Public
_____ County, Michigan
My commission expires: _____

BUYER:

By: **NAME**
Its: **TITLE**

STATE OF MICHIGAN)
)ss
COUNTY OF Grand Traverse)

Acknowledged before me on this ____ day of _____, 20____, by **NAME**, **TITLE** of
the **ENTITY NAME**.

Notary Public
_____ County, Michigan
My commission expires: _____

EXHIBIT A
Legal Description

EXHIBIT B
Conservation Easement